

## **BRADDOCK PARK AND NORTH BERGEN EMS PROPERTY DIVERSION PRE-APPLICATION**

### **RESPONSE TO GREEN ACRES' OCTOBER 10, 2021 COMPLETENESS REVIEW ON BEHALF OF HUDSON COUNTY AND TOWNSHIP OF NORTH BERGEN**

**Date: April 5, 2022**

#### **Preliminary Statement**

Hudson County and the Township of North Bergen along with their staff and professionals (the "Applicants"), hereby submits this response and have made every effort to adhere to the requirements set forth in N.J.A.C. 7:36-26.8 for the public scoping hearing and the pre-application for an after-the-fact major diversion of both a 1.3339 acre area in Braddock Park ("Braddock Park Diversion Area") and the North Bergen EMS South Building, 1814 43<sup>rd</sup> Street, North Bergen ("EMS Property"). An after-the-fact major diversion is a unique application, but one that is provided for in the New Jersey Department of Environmental Protection - Green Acres Program ("Green Acres") regulations. The Applicants recognize the importance of bringing Green Acres funded property into compliance.

The intention of the joint application for the diverted properties was to efficiently use limited public resources and streamline the process while still achieving the goals of the Green Acres regulations that allow for major diversions like this one. The replacement properties identified in the pre-application would exceed the ratio requirements and provide additional recreation space.

It continues to be the desire of the Applicants to bring these properties into conformance with Green Acres regulations while adhering to the regulations promulgated by the New Jersey Department of Education ("NJDOE") and other applicable laws that impact the health and safety of North Bergen and Hudson County's residents.

The Applicants hereby submit the following responses to Green Acres Pre-Application Completeness Review received October 5, 2021.

#### **A. Scoping Hearing (N.J.A.C. 7:36-26.8)**

1. For the August 11, 2020 scoping hearing, please provide proof of display advertisement, the posting of a sign on the proposed diversion parcels, notice to government agencies and property owners within 200 feet, and a list from the tax assessor of the properties within 200 feet, as required by the Green Acres rules. Please also provide evidence that the County placed an advertisement for the scoping hearing on its website:

In the midst of an unprecedented shutdown of government, schools, and our country with the onset of the Covid-19 pandemic and quarantine in March 2020, the Applicants received approval from NJDEP – Green Acres to move forward with a joint application and to hold the public scoping hearing virtually. If errors or omissions were made in the conduct of the public scoping hearing or with the pre-application submission, they were inadvertent. With regard to the technical requirements for the notice for the public scoping hearing (“Notice”), the objectives and goals of the Notice provisions were substantially achieved. For example, extraordinary efforts were made to place signage on both diverted properties to alert the public to the scoping hearing to take place, but the notice to property owners within 200 feet of the 43<sup>rd</sup> Street property was not mailed out.

1. Proof of display advertisement:

[https://www.nj.gov/dep/greenacres/pdf/north-bergen-diversion\\_part-10\\_2020-07-10-public-scoping-hearing-notice-legal-ads-and-website-postings.pdf](https://www.nj.gov/dep/greenacres/pdf/north-bergen-diversion_part-10_2020-07-10-public-scoping-hearing-notice-legal-ads-and-website-postings.pdf). This proof of display advertisement was provided in the Applicants’ pre-application.

2. The posting of a sign on the proposed diversion parcels:

See “Appendix - Exhibit 1 2020-07-10 Braddock Park Diversion Notice of Public Scoping Hearing Signage Location and Pics” and the emails below.

**From:** Liz Gonzalez

**Sent:** Thursday, July 9, 2020 12:27 PM

**To:** John Shaw <[jshaw@NorthBergen.org](mailto:jshaw@NorthBergen.org)>; Jason Diaz <[jasondiaz@northbergen.org](mailto:jasondiaz@northbergen.org)>

**Cc:** Christopher Pianese ([CPianese@NorthBergen.org](mailto:CPianese@NorthBergen.org)) <[CPianese@NorthBergen.org](mailto:CPianese@NorthBergen.org)>; Bernadette McPherson <[Bernadette@m-strat.com](mailto:Bernadette@m-strat.com)>

**Subject:** FW: 2020-07-06 Public Scoping Hearing Notice DRAFT - Sign - Time Sensitive

Good afternoon Gentlemen,

As outlined on the attached, here are the locations for the signs to be placed:

1. 8 x 4 sign at the driveway entrance leading into the preschool at Braddock Park
- (7) 4 x 4 signs at various entrances to the park as noted on the attached map
- (2) 4 x 4 signs at the 43<sup>rd</sup> Street park – on the 43<sup>rd</sup> St and 44<sup>th</sup> St entrance (see pics)

We will need to coordinate the installation of the signs with the County Parks Department, as per below email. Please provide me with the DPW contact person and the time that you anticipate having the signs installed.

Thanks,

Liz

**Liz González | Township of North Bergen**

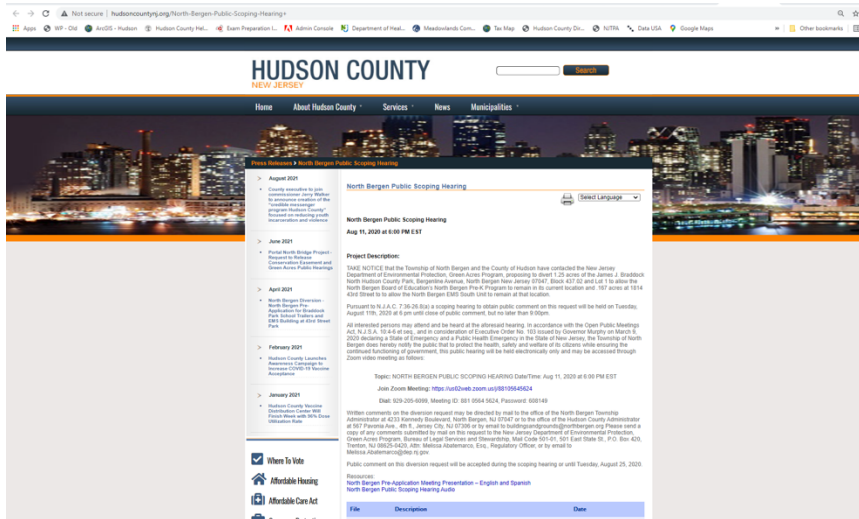
4233 Kennedy Boulevard, North Bergen, NJ 07047

Office: (201) 392-2027 | Fax: (201) 865-0107

email: [lgonzalez@northbergen.org](mailto:lgonzalez@northbergen.org)

*Go Green. Please consider the environment before printing this email.*

3. Notice to government agencies and property owners within 200 feet:
  - a. **Please see Notice to Government Agencies. (Exhibit 2)**
  - b. **Notice to Property owners within 200 feet of the Braddock Park Diversion Area – The only property owner within 200 feet is the County of Hudson. Please see response to 3(a) above.**  
**Notice to Property owners within 200 feet of the EMS building – During the preparation of this response, it was discovered that the notice to property owners within 200 feet of the EMS building was inadvertently omitted.**
4. List from the tax assessor of the properties within 200 feet as required by the Green Acres rules:
  - a. **No property owners exist within 200 feet of the Braddock Park Diversion Area.**
  - b. **Please see Exhibit 3- Certified List EMS property**
5. Evidence that Hudson County placed an advertisement for the scoping hearing on its website:



**From:** Daryl Krasnuk <[dkrasnuk@hcnj.us](mailto:dkrasnuk@hcnj.us)>  
**Sent:** Wednesday, October 6, 2021 2:43 PM  
**To:** Liz Gonzalez <[LGonzalez@NorthBergen.org](mailto:LGonzalez@NorthBergen.org)>  
**Subject:** RE: posting

FYI – this page was date stamped as published on 7/10/2020

**From:** Daryl Krasnuk  
**Sent:** Wednesday, October 6, 2021 2:30 PM  
**To:** 'Liz Gonzalez' <[LGonzalez@NorthBergen.org](mailto:LGonzalez@NorthBergen.org)>  
**Subject:** RE: posting

**From:** Daryl Krasnuk <dkrasnuk@hcnj.us>  
**Date:** July 10, 2020 at 10:10:04 AM EDT  
**Subject:** RE: 2020-07-06 Public Scoping Hearing Notice DRAFT  
- Requirements- Letters and Website Notice - Time Sensitive

Good morning Sue,

I just wanted to follow up to confirm that this was posted to the homepage this morning.

**From:** Susan McCurrie <smccurrie@hcnj.us>  
**Sent:** Thursday, July 9, 2020 4:34 PM  
**To:** Daryl Krasnuk <dkrasnuk@hcnj.us>; 'Liz Gonzalez' <LGonzalez@northbergen.org>  
**Cc:** Bernadette McPherson <Bernadette@m-strat.com>; James Kennelly <jkennelly@hcnj.us>  
**Subject:** Re: 2020-07-06 Public Scoping Hearing Notice DRAFT - Requirements- Letters and Website Notice - Time Sensitive

Thank you Daryl.

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2. We received complaints that preference was given to North Bergen residents and elected officials during the scoping hearing, allowing them to speak first. This resulted in the exclusion of other Hudson County residents and all non-County residents, even though the park is County-owned and subject to Green Acres restrictions for the benefit of all New Jersey residents. Why was this decision made and, when it became clear that time was running out, why was that restriction not lifted and/or the hearing time extended to accommodate more speakers?

**The purpose of the Public Scoping Hearing was achieved. The Public Scoping Hearing was held on August 11, 2020 for the full 3 hours between 6:00 pm and 9:00 pm scheduled via Zoom in which more than 50 speakers were heard. The materials were posted in advance on both the County and North Bergen websites and shared on the Zoom platform screen during the meeting in both English and Spanish. More than 241 comments via email were received through the established email address posted on both the Township and County website prior to the hearing or forwarded from Green Acres. Seventy (70 ) emails were received after the hearing during the public comment period from August 11 through August 25, 2020. Some were, in fact, duplicative, but all were reviewed. There was ample opportunity for public comments, before and after the Scoping Hearing, to be made by anyone who was not reached during the Scoping Hearing (evidenced by the 241 email comments received).**

**The public scoping hearing adhered to the time frame set forth in the public notice.**

Given the location of the properties, the resources expended in the process, and the impact the decision on the diversion would have, it was thought fair and reasonable to provide North Bergen residents an opportunity to speak first. In opening the hearing, it was stated “North Bergen residents will be given the opportunity to speak first,” however, under the Zoom platform, those who raised their hands first were called upon and in that order. If someone was called on who resided in a different community than North Bergen, his/her comments were nevertheless received. With the exception of the elected officials (whose comments are certainly not prohibited at a public hearing), the residency of the individual was not known to the moderator until they stated same for the record. Where only phone numbers were shown in the Zoom format, the identity of the individual was unknown beforehand. North Bergen residents who spoke expressed both support for and opposition to the use of the Braddock Park Diversion Area for the Pre-K. No speaker or comment was made that expressed any opposition to the diversion of the EMS Property. Some individuals who joined the Zoom hearing by phone were unable to access the microphone by unmuting themselves through the dial nine feature when they were called upon for comment. As the time period noticed for the hearing came to a conclusion, it was stated in both English and in Spanish, “In conformance with the public notice for this hearing, we will now close the public comments. We'd like to thank everyone again for your participation in this first step in the process and remind you that all comments whether they're made tonight or emailed or by mail will be considered in this process. Any additional comments will be accepted by mail or email until August 25, 2020. All of the information about submitting email comments are on the North Bergen's website and Hudson County's website.”

The Applicants provided multiple avenues for any individual to submit their comments concerning this diversion application. As such, the purpose and intent of the Public Scoping Hearing and comment period were met.

#### **B. Public Comments (N.J.A.C. 7:36-26.8(e)3)**

1. Since the August 2020 scoping hearing, Green Acres has received hundreds of written comments on the proposed diversions. Green Acres forwarded all of the comments it received to the applicants. The summary of public comments in the pre-application does not address many of these comments:

Every effort was made to address the substance of all public comments received either through our established email address that was included in the public notice, public comments at the scoping hearing, and those forwarded to us by DEP representatives. Our responses to comments contained within the pre-application were believed to be complete. Many comments were substantively similar, so these comments were addressed in a cumulative fashion. Additional responses requested are provided below.

2. Please delete the word “final” from the header of the public comments response since

this is not yet a final application. -

**Please see “Revised 10. Summary of Written Comments” attached.**

3. Commenters asked why the application proposes to allow the trailers to remain in the park even though (1) there was a prior referendum to put a high school in Braddock Park, and that referendum was rejected, and (2) one of the stated purposes of the approved \$65 million bond referendum was to remove the trailers from the park.

**Respectfully, it is simply incorrect that there was a 1) referendum to put a high school at Braddock Park and 2) the stated purpose of the 2018 referendum “was to remove the trailers from the park.” No referendum seeking voter approval for a high school at Braddock Park was ever on the ballot in North Bergen or Hudson County. A referendum was passed in 2018 concerning the realignment of the North Bergen public schools, but it did not state as one of its purposes the removal of trailers from Braddock Park as per the attachment “December 7 NBBOE Referendum Resolution” demonstrates.**

4. Why is it appropriate for a portion of a County park to be diverted to serve the school needs for one Hudson County municipality?

**Hudson County officials approved moving forward with the Diversion process in light of the compelling need within North Bergen, the municipality within which Braddock Park is situated, for space to hold pre-kindergarten classes. Hudson County responded to the request of its constituency to assist with an immediate need for a location for the pre-kindergarten classes. In densely populated Hudson County, and North Bergen in particular, where real estate is very limited, alternatives simply do not exist that meet both NJDEP and NJDOE standards. For those reasons, it is appropriate for a small portion of Braddock Park to be diverted.**

5. Will the proposed diversion area need to be expanded in the future to accommodate future expansion of the pre-K program or address other educational needs in the Township or County?

**There are no current plans to expand the Braddock Park Diversion Area in the future. What is being proposed is in the application. However, future changes to the Braddock Park Diversion Area, if any, would need to be addressed through Hudson County and NJDEP diversion regulations.**

**Further, in response to public comments, the proposed area of diversion was expanded slightly after the Public Scoping Hearing held in August 2020 to include for the addition of five (5) parking spaces in the Braddock Park Diversion Area.**

6. In general, why is the County proposing to divert parkland when there is not adequate parkland in the County?

Adequacy of parkland is a subjective concept. However, the diversion of a small area of Braddock Park does not result in a net loss of parkland. The parcels which will serve to replace the proposed diverted area will result in a net gain of parkland for Hudson County. The Applicants propose to provide recreation and open space areas on Paterson Plank Road and River Road which will provide parkland access to underserved areas of Hudson County. The replacement properties exceed the ratio set by Green Acres regulations and are closer to other communities outside of North Bergen than to Braddock Park. Moreover, as Green Acres regulations prohibit the exclusion of non-residents, this application creates more accessible recreational space to other residents of Hudson County as well as to the general public.

The compelling public need for this application for the Braddock Park Diversion Area is to find a permanent location for a Pre-School facility to house a portion of the Pre-School population to implement a full day Pre-K program. The significant public benefit to be derived is to meet student classroom ratios throughout the district, to comply with both NJDOE standards and NJDEP regulations for a diversion after the fact and end the use of taxpayer dollars in search of an alternative that does not exist.

In densely populated and highly congested North Bergen, the central location and purpose of the EMS North property meets the compelling public need of providing for the health, safety, and well-being of North Bergen's residents. If forced to move, there would be irreparable damage to public safety, significant harm to a highly successful public outreach program, and an outrageous waste of taxpayer dollars in demolition and relocation costs. The Diversion of the NB EMS South Building will allow emergency service and public outreach to continue uninterrupted and spare North Bergen and Hudson County taxpayers the expense of demolition and re-location, a significant public benefit.

### **C. Description of Proposed Diversion (N.J.A.C. 7:36-26.9(d)1)**

1. The Green Acres Program cannot make a determination about the Braddock Park diversion's compelling public need without the Pre-K enrollment data requested below in the Alternatives Analysis section.

**See Response under Section E: Alternatives Analysis below.**

2. The EMS is situated on Block 103, Lots 127 and 107. However, Lot 107 is not included in the application materials, nor are there maps associated with the EMS. Because of this, the extent of the area sought to be diverted is unclear.

The EMS property is only situated on Lot 127. The area sought to be diverted is .138 acres according to Land Valuation forms provided and attached under G. Land Valuation Forms (N.J.A.C. 7:36-26.9(d)4). Please see Tax Maps included as attachments in section H. Maps (N.J.A.C. 7:36-26.9(d)9).

3. Please confirm whether the EMS diversion is for a lease or in fee. If a lease is sought, please include the draft lease.

**The diversion sought is in fee.**

**D. Lease (N.J.A.C. 7:36-26.9(d)1vi):**

1. Please provide copies of all leases between Hudson County and North Bergen and/or the North Bergen Board of Education for the proposed diversion area in Braddock Park.

**Please see Braddock Park Lease Attached.**

2. Please provide documentation that the lease payments required by the October 19, 2011 lease between the Township/BOE and the County, and any subsequent addenda to that lease, were made by the Township/BOE and received by the County. Further, please document that North Bergen Township used the lease payments for recreational purposes as required by the Green Acres Rules.

**Please see statement below and letter attached from Hudson County CFO.**

BRADDOCK PARK LEASE						
Date	RJ	CODE	RECEIVED FROM	DESCRIPTION	CHECK N <sup>o</sup>	AMOUNT
11/29/11		01-1220-D-4-00.00	TOWNSHIP OF NORTH BERGEN	ENCOACHMENT/RIGHT OF WAY ON COUNTY PROPERTY	85355	5,000.00
05/02/12	1100	01-192-16-507-01-0000	TOWNSHIP OF NORTH BERGEN	ENCOACHMENT/RIGHT OF WAY ON COUNTY PROPERTY		5,000.00
10/17/17	2740	01-192-08-105-47-0000	TOWNSHIP OF NORTH BERGEN	BRADDOCK PARK LEASE	50720	10,000.00
08/31/20	2366	03-286-56-950-02-0000	TOWNSHIP OF NORTH BERGEN	BRADDOCK PARK SCHOOL TRAILERS	61275	5,000.00
Total						25,000.00

**E. Alternatives Analysis (N.J.A.C. 7:36-26.9(d)2)**

1.The Green Acres program has received numerous comments regarding alternatives, as the regulations require applicants to consider available alternatives. As a general matter, the alternatives analysis is inadequate because it included many park properties that are also ineligible for use as a school and contained few privately owned properties. This analysis must be expanded to include other properties, which must include properties that could be acquired, including other properties that could be used as a school and privately owned properties. The costs and feasibility of each alternative must be analyzed.

The Applicants have made extensive efforts over the last 20 years to identify appropriate alternative sites for the Pre-K Program. Despite general comments that privately owned properties exist in North Bergen that the Applicants have overlooked, no alternative sites have been brought to the Applicants. Logic dictates that if a suitable alternative site were available that it would be far more beneficial to procure same than the Green Acres diversion process, which is purposely overly burdensome to disincentivize its use.

A number of locations and methods of procurement have been pursued over the past 20 years, each confronting any number of obstacles including without limitation lack of adequate space, contamination, etc. Had any of them been an appropriate alternative, the expenditure of limited valuable resources better utilized by the taxpayers of North Bergen, Hudson County, and the State of New Jersey would have been avoided.

Over the last 20 years exhaustive efforts have been made to identify an alternative site for North Bergen's Pre-K program. Each identified or suggested site has been analyzed to determine whether it is a "feasible," "reasonable," or "available," alternative, as per the guidelines for diversion of Green Acres-encumbered properties promulgated by Green Acres under N.J.A.C. 7:36-26.9(e). However, any alternatives must also be and have been evaluated based not just on their compatibility with the North Bergen BOE's operational capacity, but with locally developed educational standards and compliance with relevant NJDOE codes and standards, specifically:

- N.J.A.C. 6A:13A, regarding "Elements of High Quality Preschool Programs";
- N.J.A.C. 6A:26 and NJAC 5:23, providing guidelines for "Preschool Facilities";
- N.J.S.A. 18A:35-7, defining school health and physical education requirements;
- "Preschool Teaching and Learning Standards"; and,
- "Preschool Implementation" guidelines

The history bears repeating.

In 2001, the North Bergen BOE was in the process of establishing a building program to house expansion of early childhood education, as per new state mandates requiring the provision of full day Kindergarten and half-day Pre-Kindergarten (Pre-K) in low-income school districts. Prior to that time the District provided only half-day Kindergarten. The North Bergen BOE began preparing plans for construction of room conversions and additions at existing elementary schools within the North Bergen School District. Multiple lots were acquired to support the construction of an Early Childhood Annex on Lincoln School at 64th Street in North Bergen, between Durham Street and Smith Street. When excavation began on a paved lot on the existing Lincoln School property, questionable sub grade conditions were encountered, which required environmental testing and base remediation. As a result, construction schedules for the new early childhood annex could not be maintained and the Board began exploring emergency solutions in order to meet the state mandate to provide Pre-K by the start of the 2001-2002 school year. Subsequently, the decision was made to locate Temporary Classroom Units ("TCUs") at an old municipal pool site in North Bergen on Tonnelle Avenue

near 89th Street, on an emergency basis. When excavation for utility connections began in the paved parking area at the pool site, the trenches were filling with materials that indicated contamination from historic local industry, immediately necessitating further environmental testing. As a result of this testing, the municipal pool site had to be closed and vacated. A request was then made by the North Bergen BOE and Township to the County of Hudson for temporary occupancy for location of TCUs within the boundaries of the Township's leasehold at Braddock Park. With County approval, the Board made plans to place the TCUs at Braddock Park.

In 2008, the North Bergen BOE submitted schematics to the NJDOE for review and approval to construct a 32-classroom preschool facility at a North Bergen BOE-owned property on 64th Street in North Bergen (Block 205, Lot 30). The plans included community space in the new facility (for shared Township use) and improvements to gym space at the existing Recreation Center, both to be shared by the new school and Township recreation programs under an inter-local agreement. Upon notice that the 64th Street site was encumbered by Green Acres funding and not available for construction, the property was removed from consideration as the site of a permanent preschool facility in North Bergen.

Subsequently, the North Bergen BOE completed site search and feasibility studies for construction of a new preschool at other sites: one near Franklin School and 53<sup>rd</sup> Street and another on 16th Street in the southern end of North Bergen. Another site was considered, Temple Beth El, and determined to not be a feasible or available location. Portions of the "Hudson News" properties were previously reviewed as potential sites for TCU placement; however, this was found to be not feasible as the usable flat area did not allow space for all TCUs and the site required substantial environmental remediation. All of these sites did not prove feasible, reasonable, or available under the regulations then and are not now and other options were pursued.

In May 2012, the Township and North Bergen BOE issued a Request for Proposals (RFP) for the lease of a full facility for preschool use, with joint use by a branch library, so that the TCUs could be vacated from Braddock Park. The responses received proposed leases at rates the North Bergen BOE deemed excessive. The Board began to pursue other options after attempting, unsuccessfully, to negotiate reduced lease pricing. In the spring of 2013, notice was given that the 64th Street property was in fact not encumbered by Green Acres funding and the Board again considered use of Block 205, Lot 30. As was determined during the initial feasibility study of the 64th Street property, acquisition of adjacent properties was necessary in order to provide proper access to the facility, parking, and all requirements as per NJDOE rules and regulations. The adjacent properties were no longer available and thus, the alternative was no longer an available option for the North Bergen BOE.

In 2014, discussions began between the applicants and NJDEP officials regarding the initial pre-application for a major diversion of the Braddock Park Diversion Area. A pre-application was submitted on January 26, 2016 prepared by Bruno and Associates. It was subsequently deemed incomplete in a memo from Caroline Armstrong of NJDEP in 2016. Millennium Strategies was

hired by the North Bergen BOE to assist in the process and submitted a response to NJDEP's determination of incompleteness in July 2016. NJDEP's response to Millennium Strategies' submission in October 2017 requested additional information. In the meantime, a federal application under Land Water and Conservation Funding regulations for a conversion of the Braddock Park Diversion Area was also submitted.

In 2018, North Bergen voters approved a bond referendum for the purchase of the former Hudson County High Tech High School and district-wide realignment improvements with a new full-day Pre-K program in accordance with the NBBOE's Long Range Facilities planning. In December of 2019, discussions as to how to best address the diversion of the Braddock Park Diversion Area and the then recently discovered diversion of the EMS South Building jointly took place with DEP officials. The 64<sup>th</sup> Street Property, which had been the subject of an unfunded 2017 Green Acres application on behalf of the North Bergen, was identified as a significant addition of replacement property. It was previously incorrectly identified as being encumbered by Green Acres funding. Owned by the North Bergen BOE, it had the potential to exceed the 3:1 ratio previously agreed to by DEP officials and relied on by the Applicants coupled with the other replacement properties proposed in the 2017 response at Paterson Plank Road and River Road. Together the proposed replacement properties would exceed the 3:1 ratio even with the addition of the EMS South Building included in a joint application.

In March of 2020, the world we knew pre-Covid changed dramatically. Government, schools, and businesses shut down. Work life became work from home for government officials and other businesses. Many lost their jobs. Many others lost their lives and beloved family members. In this new and uncertain time, the applicants moved forward in seeking approval from NJDEP to submit a new Pre-Application remotely through virtual meetings, relying on Zoom and email to communicate and gather the necessary documentation. Approval to hold a Public Scoping Hearing virtually, the first step in the Pre-Application process, was granted by NJDEP and was held on August 11, 2020. The Pre-Application itself was submitted on March 23, 2021. Several months later, on October 5, 2021, the results of the Application Completeness Review from NJDEP were received by the Applicants.

Over the course of the last 20 years, the search for alternative sites has included all property noted in both Pre-Applications submitted, as well as ongoing research to identify other parcels and determine if such sites are feasible, reasonable, and available. The North Bergen BOE and the Township engaged in property searches, tax record reviews, aerial photography, and research to seek alternative sites for the relocation of preschool TCUs as well as for the permanent construction of a preschool facility. The Township and North Bergen BOE have also considered sites recommended by the public during a scoping hearing held on November 5, 2014, as well as the one held in August of 2020 as part of this current application and sites recommended by representatives from the NJDEP Green Acres Program. The Township and North Bergen BOE also assessed whether proposed replacement parcels and existing Board-owned school properties could fulfill the compelling public need for providing a temporary or permanent facility for the North Bergen preschool program during this process.

**Additional alternatives were analyzed as requested and the results of these analyses are attached hereto; however, these alternatives present the same difficulties and hurdles as other alternatives due to their lack of feasibility, reasonableness, and availability as defined under N.J.A.C. 7:36-26.9 (d) (2). Further, it should be noted the cost of acquisition by eminent domain is not the fair market value of the property alone. Clearly, NJDEP recognizes the inherent controversy and complexity of eminent domain actions by seeking only willing sellers and not condemnation actions in their own State Land Acquisition Strategies. The calculation must include the loss of valuable tax revenue, the associated legal costs of inevitable challenges, the displacement of thriving and existing small businesses, the displacement of families and residents, and the potential loss of affordable housing. To further seek non-existent alternative locations rather than grant the action requested is an exercise in futility and a harsh and costly penalty the NJDEP regulations that provide for diversions after the fact do not anticipate.**

2. Please explain why the \$65 million Bond for the purchase of the Hi-Tech High School cannot be used to implement the publicly shared plan to re-locate the entire Pre-K to a location outside of Braddock Park, including but not limited to a new or existing structure on the Hi-Tech High School grounds.

**It is important to note that the purchase and use of the Hi-Tech High School was never presented as a site to relocate the entire Pre-K program either in a new or existing structure. Space would be inadequate for an additional structure there and it would not be feasible or reasonable to place Pre-K children among junior/senior high school students in the same facility. The purpose sought in passage of the bond referendum was primarily for a district-wide realignment of classes to meet NJDOE requirements, to address persistent overcrowding issues, and to implement a full day Pre-K program. If the funding from the bond referendum were used for anything other than the purchase and renovation of the Hi Tech High School, it could not have been purchased at all. The renovations and realignment envisioned would be abandoned and North Bergen's school children would remain in overcrowded classrooms throughout the district.**

3. We have been provided with copies of student enrollment information submitted by the Township to the New Jersey Department of Education that appear to be potentially inconsistent with statements made in the preapplication. Please provide the 2021-2022 numbers for:

- The number of students enrolled in the elementary schools:
- The total capacity of North Bergen's elementary schools:
- Pre-K students enrolled at the Braddock Park Pre-K location:
- Pre-K students located in other schools:
- Pre-K students enrolled at Horace Mann, Robert Fulton, and ACES program proposed to be located at Braddock Park:
- All Pre-K students are currently at the Braddock Park site:

Please see North Bergen Board of Education Enrollment Figures Chart Attached.

According to Dr. George Solter, North Bergen School District Superintendent, “School enrollment statistics are a dynamic process for reporting the number of students in every school district. Students can enroll at any time or can transfer or drop out which can change the numbers each day. However, there are certain milestone dates that are important to the state reports. October 15th of each year designates the enrollment for reporting on the Application for State School Aid (ASSA). The ASSA numbers generally populate the documents that are reported to the public. Some reports like the School Performance Reports are a year behind in the data that is distributed. This entire process can create confusion when entities ask for enrollment data. So, it is important that, when analyzing the statistics, the parameters of the data are clearly defined to accurately discuss student enrollment.” North Bergen BOE is not guided by operational capacity alone, but with locally developed educational standards, compliance with relevant NJDOE codes and standards, and a student’s need for programs like special education or and bi-lingual instruction.

4. Specifically, explain why the students proposed to remain enrolled at the Braddock Park Pre-K cannot be enrolled in North Bergen’s other elementary schools, as had been the justification for the bond referendum.

Respectfully, many goals were set forth for the passage of the bond referendum, but removal of the Pre-K from Braddock Park was by no means “the justification for the bond referendum.” It was a district wide realignment of classes to address persistent and long-standing overcrowding issues for all grades and in all schools, not just limited to Pre-K classes.

The major aspects of the North Bergen’s School Realignment Plan are/were as follows:

- Purchase former High Tech High School building on Tonnelle Avenue to become North Bergen High School West Campus for grades 7-9, plus Culinary Arts and Expanded Career Technical Education for grades 9-12
- Make renovations to NBHS West including new Auditorium Wing, new Turf Field and Student Walkway, new HVAC system and more
- Current High School (NBHS East) to include grades 10-12 and new Business and Medical Arts programs and STEM Academy
- Renovations to current NBHS East including Air Conditioning, Lighting Upgrades and Accessibility improvements
- Smaller class sizes in all Elementary Schools

<https://www.northbergen.k12.nj.us/apps/news/article/953905#:~:text=North%20Bergen%20residents%20will%20have,in%20State%20School%20Construction%20Aid.>

‘While North Bergen voters approved a \$60 million school bond referendum in 2018 to support the project, it was significantly delayed due to lawsuits that were eventually dismissed, work

delays due to public health guidelines and funding uncertainty during the COVID-19 pandemic, and flooding caused to the interior of the site during Hurricane Ida.’

<https://hudsonreporter.com/2022/03/17/north-bergen-breaks-ground-on-junior-high-school-west-campus/?amp>

5. The Township’s 2018 Long Range Facilities Plan, filed with the New Jersey Department of Education, references the “Fulton Annex” and states: “Should enrollments continue to decrease as projected, the NBBOE will be able to terminate its lease of the Fulton Annex.” Does the proposed new plan include continued use of the Fulton Annex?

**Continued use of the Fulton Annex is anticipated.**

6. Please explain why the footprint of the area sought to be diverted has not been reduced even though the pre-application states that most Pre-K children will be attending their home schools instead of the Braddock Park Pre-K.

**While some of the Pre-K children will return to their local elementary school, there are still two schools – Horace Mann and Robert Fulton - that will continue to have classroom space challenges to meet the requirements of NJDOE. Therefore, the Pre-K children from these two schools will continue to attend pre-school in the TCUs at the Braddock Park Diversion Area. In addition, the ACES program for pre-school children requiring early intervention will also continue to be housed in the TCUs at the Braddock Park Diversion Area. The footprint of the area to be diverted cannot be reduced based on current need.**

7. Also, if the number of Pre-K students to be located on Braddock Park will be reduced, the alternatives analysis should evaluate properties based on the smaller area needed for a permanent Pre-K, not the current size of the Pre-K trailers and associated parking. This may allow an alternative location for the Pre-K on a non-parkland site previously deemed too small. Is the current configuration and placement of the diversion based upon the layout of the trailers, and, if that is the case, will that same configuration be required for a new permanent school building?

**Renovations to the High Tech High School are not anticipated to be completed until 2024 so Pre-K students will be located at Braddock Park Diversion Area at least until then. With the implementation of full day Pre-K district wide, it is not anticipated that the “the number of Pre-K students located at the Braddock Park Diversion Area will be reduced” as suggested above. Pre-K students that will remain at the Braddock Park Diversion Area are from Horace Mann and Robert Fulton Elementary Schools, and those children who attend the ACES program. As is commonly known, the number of students requiring specialized instructions as is offered by our ACES program is growing exponentially and no doubt will be sought out when we offer Full-Day, particularly to our families from a demographic that find affordable childcare beyond their reach.**

Further, any alternatives proposed and considered must be evaluated and have been evaluated based not just on their compatibility with the North Bergen BOE's operational capacity, but with locally developed educational standards and compliance with relevant NJDOE codes and standards, specifically:

- N.J.A.C. 6A:13A, regarding "Elements of High Quality Preschool Programs";
- N.J.A.C. 6A:26 and N.J.A.C. 5:23, providing guidelines for "Preschool Facilities";
- N.J.S.A. 18A:35-7, defining school health and physical education requirements;
- "Preschool Teaching and Learning Standards"; and,
- "Preschool Implementation" guidelines

8. Please explain why the \$10 million line item in the FY22 State Budget for North Bergen to acquire property for schools cannot be used to re-locate the entire Pre-K to a location outside of Braddock Park.

**The \$10 million line item in the FY22 State Budget was to alleviate the burden on the taxpayers of North Bergen in acquiring the Hi Tech High School site and would not have been possible without it.**

9. Please explain why each property North Bergen offered as a replacement property in the pre-application could not instead be used to build a Pre-K building for the students enrolled at the Braddock Park Pre-K location.

**The replacement properties offered in the Pre-application are not considered proper alternatives for the construction of a Pre-K building. One is a newly constructed playground (Paterson Plank Road Property) offering open space and recreational activity to an underserved area of Hudson County and North Bergen. The replacement property at River Road will remain open space to provide protection to the bird sanctuary at Braddock Park. The replacement property at 64<sup>th</sup> Street if utilized would eliminate and negatively impact existing recreation and open space in a high density area of North Bergen. It has been considered in the past and rejected as an alternative. In 2008 the Board submitted schematics to the NJDOE for review and approval to construct a 32- classroom preschool facility at a Board-owned property on 64th Street in North Bergen (Block 205, Lot 30). The plans included community space in the new facility (for shared Township use) and improvements to gym space at the existing Rec Center, both to be shared by the new school and Township recreation programs under an inter-local agreement. Upon notice that the 64th Street site was encumbered by Green Acres funding and not available for construction, the property was removed from consideration as the site of a permanent preschool facility in North Bergen.**

**Subsequently, the Board completed site search and feasibility studies for construction of a new preschool at other sites: one near Franklin School and 53rd Street and another on 16th Street in the southern end of North Bergen. Another site was considered, Temple Beth El, and determined to not be a feasible or available location. Portions of the "Hudson News" properties were previously reviewed as potential sites for TCU placement; however, this was found to be not feasible as the usable flat area did not allow space for all TCUs and the site required substantial environmental remediation. These sites did not prove feasible, reasonable, or available for a variety of reasons, and other options were pursued.**

In May 2012, the Township and Board issued a Request for Proposals (RFP) for the lease of a full facility for preschool use, with joint use by a branch library, so that the TCUs could be vacated from Braddock Park. The responses received proposed leases at rates the Board deemed excessive. The Board began to pursue other options after attempting, unsuccessfully, to negotiate reduced lease pricing.

In the spring of 2013, notice was given that the 64th Street property was in fact not encumbered by Green Acres funding and the Board again considered use of Block 205, Lot 30. As was determined during the initial feasibility study of the 64th Street property, acquisition of adjacent properties was necessary in order to provide proper access to the facility, parking, and all requirements as per New Jersey Department of Education rules and regulations. The adjacent properties were no longer available and thus, the alternative was no longer an available option for the Board. Since that time the 64<sup>th</sup> Street property has been utilized to provide a replacement for the girls' practice softball field among other improvements at a significant cost. Its inclusion and consideration as replacement property in this process means it will be preserved as recreation space.

10. Please analyze whether land adjacent to the proposed alternatives could be acquired or condemned to, together with the proposed alternative parcel(s), create a space large enough to build a Pre-K building.

There is no proposed alternative or land adjacent to it that could be acquired or condemned that is a "feasible," "reasonable," or "available," as an alternative, as per the guidelines for diversion of Green Acres-encumbered properties promulgated by the State of New Jersey Department of Environmental Protection Green Acres Program under NJAC 7:36-26. 9(e). Further, any alternatives must also be and have been evaluated based on their compatibility with the Board's operational capacity and locally developed educational standards, as well as compliance with relevant New Jersey Department of Education (NJDOE) codes and standards, specifically:

- N.J.A.C. 6A:13A, regarding "Elements of High Quality Preschool Programs";
- N.J.A.C. 6A:26 and N.J.A.C. 5:23, providing guidelines for "Preschool Facilities";
- N.J.S.A. 18A:35-7, defining school health and physical education requirements;
- "Preschool Teaching and Learning Standards"; and,
- "Preschool Implementation" guidelines

Such acquisition or condemnation of such alternatives would be cost prohibitive and result in residents and families being displaced in densely populated North Bergen where alternative housing is in short supply. It could also result in existing businesses being forced to relocate in an area where alternate locations are in short supply as well as coming at an increased cost. To further seek non-existent alternative locations rather than grant the action requested is an

exercise in futility and a harsh and costly penalty the NJ DEP regulations that provide for diversions after the fact do not anticipate.

11. Please include 6217 Meadowview Avenue in the alternatives analysis, as requested by the Green Acres Program in November 2020.

The request to consider 6217 Meadowview Road came outside the public scoping hearing months after the public comment period had closed. Please see the alternatives analysis below.

- **6217 Meadowview Avenue Block 205 Lot 81**

The property at 6217 Meadowview Avenue is currently listed at the Zillow link below as for sale the property at \$4,177,990. It is currently under review by the Board of Adjustment for redevelopment as multi-family housing. Housing comes at a premium in North Bergen, is in high demand, and potentially represents an opportunity to increase affordable housing units available. The asking price listed is well above the assessed value and as such would not be deemed "available" as per N.J.A.C. 7:36-26.9(e)3ii. Current owners are listed as RICH, FRANK & GERTRUDE & J KALEBIC. Further, this site must also be evaluated based on their compatibility with the Board's operational capacity and locally developed educational standards, as well as compliance with relevant New Jersey Department of Education (NJDOE) codes and standards, specifically:

- N.J.A.C. 6A:13A, regarding "Elements of High Quality Preschool Programs";
- N.J.A.C. 6A:26 and NJAC 5:23, providing guidelines for "Preschool Facilities";
- N.J.S.A. 18A:35-7, defining school health and physical education requirements;
- "Preschool Teaching and Learning Standards"; and,
- "Preschool Implementation" guidelines

The acquisition or condemnation of this site would be cost prohibitive and result in the loss of potential housing in densely populated North Bergen where housing is in short supply. Further seeking alternative locations rather than granting the action requested is an exercise in futility and a harsh and costly penalty the NJDEP regulations that provide for diversions after the fact do not anticipate.

[https://www.zillow.com/homedetails/6217-Meadowview-Ave-North-Bergen-NJ-07047/38928657\\_zpid/](https://www.zillow.com/homedetails/6217-Meadowview-Ave-North-Bergen-NJ-07047/38928657_zpid/)

1. Environmental Impact: Occupancy for educational purposes would create no increased detrimental impact to the environment. The site is privately owned and has been in commercial use for decades, with established parking for cars and trucks. There is heavy vegetation including mature trees surrounding the property, however no known fauna and no known endangered species found at

the property.

2. All Department Permits required to construct or utilize the Alternative: To the best of our knowledge, New Jersey Department of Environmental Protection (“NJDEP”) permits are not required to construct or utilize this alternative. Other permits required to construct or utilize the alternative would include local building permits, New Jersey Department of Education (“NJDOE”) and Hudson County Department of Education (“HCDOE”) review, North Bergen Zoning Board of Adjustment review for change of use from commercial to the permitted educational use in the R-3 zone.
3. Threatened Species: There are no known threatened, endangered, or rare species or the habitat of such species that will be affected by the alternative.
4. Overall Cost: It is difficult to calculate the overall costs of acquisition, design, and construction of a preschool at this location. The current statutory authority for condemnation proceedings in NJ is found in the Eminent Domain Act of 1971 (N.J.S.A. 20:3-29) which requires just compensation be provided to the property owner(s) for the taking of private property. The condemnation process is lengthy, complicated, and costly and would far exceed the listed sale price of \$4,179,900 or the assessed value of the property. The cost per square foot for school construction has been increasing and is even more expensive in our area of the country ( <https://ccorpinsights.com/costs-per-square-foot/> )without the added extraordinary cost of an eminent domain action.
5. The Timetable or Schedule necessary to Implement the Alternative: Should this unsupported alternative be imposed, the timetable to implement would take several years and include a bond referendum given the cost of acquisition, governed by NJDOE procedures and other applicable laws. Acquisition would likely require a lengthy and costly process as set forth in the Eminent Domain Act of 1971 that includes the appointment of Commissioners, a valuation process, good faith negotiations, and the potential for a jury trial and appeals before design and construction.
6. Estimated Land Value or Lease Cost: Public records for tax year 2022 indicate that the property was assessed for \$874,900 and generated \$13,962.02 in property taxes.

Zoning, Land Use, Environmental, or Other Constraints: The property is located within an R3 zone allows for educational use. Use of the alternative site as a preschool would require local building permits, NJDOE and HCBOE review. As the property is currently the subject of Board of Adjustment review and for other factors referenced above, the site is ‘not available’ as per N.J.A.C. 7:36-26.9(e)3ii and is “not reasonable” as per N.J.A.C. 7:36-26.9(e)2iv.

12.The pre-application states that certain privately owned parcels are not available because the owner is unwilling to sell or lease them. Pursuant to NJAC 7:36-26.9(e)1ii, if a seller is unwilling, the applicant must demonstrate that condemnation would not be reasonable (as that term is defined in NJAC 7:36-26.9(e)2ii). Please supply this required information:

**As was stated in the alternatives analyses previously submitted, it is difficult to calculate the overall costs of acquisition, design, and construction of a preschool on the privately owned properties considered. The current statutory authority for condemnation proceedings in NJ is found in the Eminent Domain Act of 1971 (N.J.S.A. 20:3-29) which requires just compensation be provided to the property owner(s) for the taking of private property. The condemnation process is lengthy, complicated, and costly and would far exceed the assessed value of the property or the sales price if listed. The cost per square foot for school construction has been increasing and is even more expensive in our area of the country ( <https://ccorpinsights.com/costs-per-square-foot/> )without the added extraordinary cost of an eminent domain action. In addition to not being “available” none of the alternatives meet NJDOE requirements Should an unsupported alternative be imposed, the timetable to implement would take several years and include another bond referendum given the cost of acquisition, governed by NJDOE procedures and other applicable laws. The need for the voters to approve such an acquisition by referendum, the outcome of which is anyone’s guess, eliminates virtually all privately owned properties. Acquisition would likely require a lengthy and costly process as set forth in the Eminent Domain Act of 1971 that includes the appointment of Commissioners, a valuation process, good faith negotiations, and the potential for a jury trial and appeals before design and construction.**

13.The pre-application’s Description of the Proposed Disposal/Diversion references a property the Township purchased next to Lincoln Park School on which to locate the Pre-K, that was later found to be contaminated. Has the property been remediated? If so, can the pre-K be located there? If not, can it be remediated for that purpose, thus avoiding the diversion?

**As to the lots the Board purchased next to Lincoln School, the contamination and sub-grade conditions were remediated and the Lincoln School Early Childhood Annex was constructed. It houses Kindergarten for all schools except McKinley and Polk Street School children. Combined with the Lincoln School it includes core facilities and administrative areas (cafeterias, auditorium/cafeateria, gym, administrative offices, nurse, child study team, play areas, etc.) and is approximately 125,000 SF, plus limited below grade parking. The building occupies the entire city block, between Smith Avenue and Durham Street, and 63rd and 64th Street. No space remains there to locate additional Pre-K students.**

14.It is unclear if any of the alternative sites listed in the pre-application were considered to accommodate the relocation of the EMS.

They were not considered given the unique history and nature of the EMS South Building. It was recognized from the outset that “Acquisition of any alternative sites in the area and construction of a new facility would not be feasible, reasonable, or available under N.J.A.C. 7:36-26.9 as it would cause extraordinary operational or safety problems, result in adverse impacts of extraordinary magnitude, including, but not limited to, serious community disruption, and would create unique problems, including, but not limited to, unusual negative outcomes, unfair distribution of burdens, and extraordinary costs estimated to exceed \$1 million,” as stated in the previously submitted Alternatives Analysis in the Pre-Application materials.

Please see the the excerpt below for the Alternatives Analysis Response copied here from the Pre-Application Alternatives Analysis response:

#### **Compelling Public Need and Significant Public Benefit for North Bergen EMS South Diversion**

In densely populated and highly congested North Bergen, the central location and purpose of this property meets the compelling public need of providing for the health, safety, and well-being of North Bergen’s residents. If forced to move, there would be irreparable damage to public safety, significant harm to a highly successful public outreach program, and an outrageous waste of taxpayer dollars in demolition and relocation costs. The Diversion of the NB EMS South Building will allow emergency service and public outreach to continue uninterrupted and spare North Bergen and Hudson County taxpayers the expense of demolition and re-location, significant public benefits.

#### **Methods for Identifying Alternatives for the EMS South Building**

Methods used to identify any alternative began and ended with the recognition that an alternative new facility would be at the expense of North Bergen taxpayers. Acquisition of any alternative sites in the area and construction of a new facility would not be feasible, reasonable, or available under N.J.A.C. 7:36-26.9 as it would cause extraordinary operational or safety problems, result in adverse impacts of extraordinary magnitude, including, but not limited to, serious community disruption, and would create unique problems, including, but not limited to, unusual negative outcomes, unfair distribution of burdens, and extraordinary costs estimated to exceed \$1 million.

15. The pre application lists a 20 acre privately owned parcel at 1 Daffy's Way/2701 Rt 3 East, Block 451.05, Lot 14.011 as an alternative, but states that it is not available because it was recently acquired in 2020 for commercial development. Please state whether North Bergen has inquired with the owner about whether the parcel is available for sale or lease. No they have not and for obvious reasons as shown in the photo below and our response submitted in the Pre-Application Alternatives Analysis.

Our response regarding the Daffy's property submitted in the Pre-Application Alternatives Analysis is copied below. What we included in the response, but is omitted in the question is that the property was acquired in 2020 for \$63 million. The property is big box retail that has since been developed as warehouse space. As shown in the attached photo, construction is almost complete.



It is not appropriate nor would it meet NJDOE requirements for a lease for a Pre-K program as stated below. As such and for reasons also stated below in the original submission, it would not be an appropriate site for acquisition either.

#### **E. Alternatives Using Private Land or Other Public Lands for the North Bergen Pre-K Program at Braddock Park**

##### **1. Private Land Alternatives**

Private Land Alternative	Block	Lot	Estimated Assessed Value
1 Daffy's Way/ 2701 Route 3 East	451.05	14.011	\$8,413,200
1706 Paterson Plank Road			
40      3.03, 3.031			\$639,000

- 1 Daffy's Way/2701 Route 3 East (Block 451.05, Lot 14.011)

This 20-acre parcel contains parking and a large "big box" type retail building that is currently vacant. It is located in the New Jersey Meadowlands District and the zoning is under the jurisdiction of the New Jersey Sports and Exposition Authority. It received approvals for warehouse development in 2020. It is best suited for this type of commercial development as the location is remote from residential neighborhoods, isolated from the rest of North Bergen by highway, Paterson Plank Road intersections, ramps, and bridges, and it has no viable pedestrian access. The site is "not feasible" under per N.J.A.C. 7:36-26.9(e)1ii as it would bring about unresolvable logistical problems with transporting children to and from school. It is "not reasonable" as per N.J.A.C. 7:36-26.9(e)2iii as it would cause extraordinary

**operational or safety problems. The site is “not available” as per N.J.A.C. 7:36-26.9(e)3i as the site was recently acquired for commercial improvement/development for \$63 million in August of 2020. The acquisition costs would be significantly higher than any other alternate under consideration. According to tax records, the owner of the site is LIT Lincoln Gateway, LLC at 230 Park Avenue, 12th floor, New York, NY, 10169.**

1. Environmental Impact: Occupancy for educational purposes would create no increased detrimental impact to the environment. The site has been in commercial use for decades, with established parking for cars and trucks. There is no established vegetation on the property. There are no known fauna and no known endangered species found at the property.
2. Threatened Species: There are no known threatened, endangered, or rare species or the habitat of such species that will be affected by the alternative.
3. All Department Permits Required to Construct or Utilize the Alternative: To the best of our knowledge, NJDEP permits would not be required to construct or utilize the alternative. Other permits would be required to construct or utilize the alternative include local building permits and NJDOE and HCDOE review.
4. Overall Cost: It is difficult to calculate the overall costs of acquisition, design, and construction of a preschool at this location. The current statutory authority for condemnation proceedings in New Jersey is found in the Eminent Domain Act of 1971 (N.J.S.A. 20:3-29) which requires just compensation be provided to the property owner(s) for the taking of private property. The condemnation process is lengthy, complicated, and costly and would far exceed the \$8,413,200 assessed value of the property. The cost per square foot for school construction has been increasing and is even more expensive in our area of the country ( <https://ccorpinsights.com/costs-per-square-foot/> )without the added extraordinary cost of an eminent domain action.
5. The Timetable or Schedule necessary to Implement the Alternative: Should this unsupported alternative be imposed, the timetable to implement would take several years and include a bond referendum given the cost of acquisition, governed by NJDOE procedures and other applicable laws. Acquisition would require a lengthy and costly process as set forth in the Eminent Domain Act of 1971 that includes the appointment of Commissioners, a valuation process, good faith negotiations, and the potential for a jury trial and appeals before design and construction.
6. Estimated Land Value or Lease Cost: Public records for tax year 2020 indicate that the property was assessed for \$8,413,200 and generated \$482,244.13 in property tax revenue.
7. Zoning, Land Use, Environmental or Other Constraints: The property is located within the boundaries of the New Jersey Meadowlands District and is under the zoning jurisdiction of the New Jersey Sports and Exposition Authority. Use of the alternative site as a preschool would require local building permits, NJDOE and HCDOE review for approval of change to Long and NJSEA review for change of use from commercial to the permitted educational use. As the site is not feasible, reasonable, or available as per N.J.A.C. 7:36-26.9, the Township of North Bergen has not made any attempt to address any change.

#### **F. Environmental Assessment Report (N.J.A.C. 7:36-26.9(d)3)**

- N.J.A.C. 7:36-26.9(d)3 and the Green Acres Environmental Assessment Report Outline require an environmental assessment report describing the environmental features of the land proposed for diversion and the replacement land, both as existing and after the proposed diversion. For both the Braddock Park and the EMS diversions, the environmental assessment report is a cursory review rather than the required detailed analysis.
- The Environmental Assessment Report Outline requires a description of the natural resources of the diversion site and surrounding area, as well as an explanation of consistency with State and local plans. For both the Braddock Park and the EMS diversions, the soil analysis, geological discussions and natural heritage program responses are missing, as is the section regarding consistency with State and local plans.
- Under N.J.A.C. 7:36-26.9(d)3, the environmental assessment report is to be prepared using an outline provided by Green Acres. Item III.E.3 of the Environmental Assessment Report Outline at [https://www.nj.gov/dep/greenacres/pdf/MajorPre-Application\\_2014-2.pdf](https://www.nj.gov/dep/greenacres/pdf/MajorPre-Application_2014-2.pdf) (Attachment 1) requires applicants to discuss how environmental justice was considered during the environmental decision-making process for a proposed diversion. Please address this requirement, in detail, for both the Braddock Park and EMS diversion

**Please see Revised section 3. Environmental Assessment Report below:**

## **ATTACHMENT I: ENVIRONMENTAL ASSESSMENT REPORT OUTLINE**

### **I. A DESCRIPTION OF THE PROPOSED DISPOSAL OR DIVERSION**

#### **A. Title/name of proposed activity: Diversion of the following properties:**

North Bergen Pre-K Program at Braddock Park - Block 437.02, Lot 1 - 8701 Boulevard East, North Bergen, NJ. The area proposed for conversion measures 1.339 acres and includes the 17 Pre-K Temporary Classroom Units and Administrative Offices, the Tot Lot, and adjacent Parking Lot Area which includes 5 parking spaces nearest to the Tot Lot and the area for dumpsters. (While included for Diversion purposes, it should be noted that the parking spaces will have signage indicating that they will be reserved only during the hours school is in session and available to the public at all other hours). The remaining land area of Braddock Park totals 167 acres and provides for a wide range of passive and active recreational uses described below. Before the TCUS were placed there the parcel proposed for diversion was available for recreational use as a practice softball field accessible by vehicle near the geographic center of Braddock Park. The field was considered obsolete and not heavily utilized or maintained in a state of good repair. The field was located within the Township of North Bergen's leasehold with the County of Hudson at Braddock Park, which included, and continues to include, a football field, soccer field, locker

room building, dog run, nature trail, and driveways and parking areas. These recreational features within the leasehold have not been impacted by the presence of the Pre-K and will not be impacted by the proposed diversion.

- B. **Preparer of Document:** North Bergen Township, North Bergen Board of Education, County of Hudson, and Millennium Strategies LLC
- C. **Location maps with the site outlined on the following:** See “Reference Map-All Sites” attached in H. Maps.

**II. A DESCRIPTION OF THE ENVIRONMENTAL CONDITIONS ON THE PARKLAND PROPOSED FOR DISPOSAL OR DIVERSION AND REPLACEMENT PARCELS (IF ANY) PRIOR TO THE IMPLEMENTATION OF THE PROJECT**

- A. **Natural resources of the site and surrounding area:** Natural features at the 167 acre- Braddock Park include a lake, open space and a bird sanctuary. The area proposed for diversion in Braddock Park is flat parkland. There are no landforms, hydrological features, surface water, threatened or endangered species or critical habitats within the boundaries of the diversion parcel.
- B. **Man-made resources:** The area proposed for conversion measures 1.339 acres (less than 1% of the total area of Braddock Park) and includes the 17 Pre-K Temporary Classroom Units and Administrative Offices, the Tot Lot, and adjacent Parking Lot Area which includes 5 parking spaces nearest to the Tot Lot and the area for dumpsters. (While included for Diversion purposes, it should be noted that the parking spaces will have signage indicating that they will be reserved only during school hours and available to the public at all other hours). The remaining land area of Braddock Park totals 167 acres and provides for a wide range of passive and active recreational uses described below. Before the TCUs were placed there, the Braddock Park Diversion Area was available for recreational use as a practice softball field accessible by vehicle near the geographic center of Braddock Park. The field was non-regulation sized, and not heavily utilized. The field was located within the Township of North Bergen's leasehold with the County of Hudson at Braddock Park, which included, and continues to include, a football field, soccer field, locker room building, dog run, nature trail, and driveways and parking areas. These recreational features within the leasehold have not been impacted by the presence of the Pre-K and will not be impacted by the proposed diversion. Access to the site is through a driveway on JFK Boulevard. There are no known hazardous substances or waste at the site, nor any underground storage tanks. There is sewer infrastructure connected to an existing system that pre-dates the placement of TCUs on the property. The area is served by NJ Transit Bus lines 23, 128, 165, 168, 181, and 750. The site is currently zoned as parkland owned by the County of Hudson and leased to the Township of North Bergen.

- C. **Human resources:** The site is located within Braddock Park, one of Hudson County's largest open space sites. It features a lake, bird sanctuary, a variety of lighted sports fields and courts including 21 tennis courts, three basketball courts, three bocce courts, handball courts, three football fields, six volleyball courts, playground equipment, a fitness station, a dog run, and various parking areas. North Bergen's Pre-K program located there serves a majority of low-income and minority residents with critical Pre-K educational services. There are 17 TCUs, a tot lot, 6 parking spaces and dumpster area within the boundaries of the Braddock Park Diversion Area. While there are no known archeological or architectural resources presented, Braddock Park has provided a welcome respite and recreation spaces to residents of densely populated Hudson County since it was established. According to the Hudson County Department of Parks website, "James J. Braddock Park, at the northern border of Hudson County, was established as North Hudson Park in 1910. The park was renamed to honor local resident James J. Braddock, the World Heavyweight Boxing Champion from 1935 to 1937, who was an inspiration to the people of the area during the Great Depression. He was recently honored with a statue on the park's 100th anniversary. The 167-acre park also features the historic former Superintendent building and Woodcliff Lake. "

### III. PROBABLE ENVIRONMENTAL IMPACTS TO THE PARKLAND AND REPLACEMENT PARCELS (IF ANY) IF THE PROPOSED ALTERNATIVE IS CONSTRUCTED

#### A. Land

**1. Plan Consistency:** According to the New Jersey State Development and Redevelopment Plan (“SDRP”), “These Statewide Policies are designed to improve both the planning and the coordination of public policy among all levels of government through flexible application.” Under Public Facilities and Services, the SDRP states, “New partnerships among government and public and private organizations are combining efforts and resources, and sharing facilities and equipment, to provide public services at lower cost and higher quality.” The joint effort this diversion process represents shows “the coordination of public policy among all levels of government.” Both the use of the Braddock Park site and the North Bergen EMS South building at their inceptions demonstrate different levels of government working together to meet the needs of its residents, whether it be Pre-K children or emergency services. Hudson County, North Bergen, and the NBBOE have continued to work jointly to bring both sites into compliance efficiently and effectively without the unreasonable expenditure of public funds. This joint effort is further shown by the replacement properties that expand and enhance existing open space and recreational opportunities for North Bergen as well as Hudson County. Both the uses of the diverted properties and replacement properties support the SDRP’s goals and are consistent with the SDRP’s Policy Map and the Statewide Policies. (N.J.A.C. 7:36 26.9(d)6)). Should the North Bergen South EMS Unit and NB CARES, which shares the facility, remain at its current location in the 43<sup>rd</sup> Street Park, those entities will continue to provide for the health, safety, and well-being of North Bergen’s residents without interruption and an unreasonable expenditure of public funds. As for urban areas like North Bergen and education, the NJSDRD states the project should advance the need for “[s]chools integrated into community centers ...and other collaborative programs that provide a thorough, efficient, and equal education opportunity for all students.” The use of the Braddock Park Diversion Area for the North Bergen Pre-K Program makes a full day Pre-K program and district-wide alignment with student -teacher ratios under NJDOE guidelines achievable. There is no doubt that it will provide for a “thorough, efficient, and equal education opportunity” for all North Bergen students. Further, “It is the stated position of the State Planning Commission that the State Plan should neither be used in a manner that places an **inequitable burden on any one group of citizens nor should it be used as a justification for public actions that have the effect of diminishing equity.**” It would be an inequitable burden on the taxpayers of North Bergen should the proposed compensation of the replacement property and requested diversions be found inconsistent.

**2.Changes to General Character of the Area:** The general character of the Braddock Park Diversion Area will not be changed by the diversion. The Pre-K has been in place in Braddock Park Diversion Area for more than 20 years now. The TCUs, tot lot, and parking spaces will remain in use for Pre-K purposes. The use of the existing leasehold by Hudson County will be unchanged as will be the use of Braddock Park in general.

**3. Loss or Alteration of Ecologically Sensitive Lands:** Ecologically Sensitive typically refers to land that is ecologically vulnerable to damage such as natural upland or wetland communities, native plant communities, rare and endangered flora and fauna, endemic species, endangered species habitat, a diversity of species, significant water resources, or outstanding aesthetic or other natural features. The proposed diversion will not result in the loss or alteration of any land that falls into these categories.

## **B. Water**

1. **Meeting State Water Quality Standards:** The project does not involve water or issues of water quality.
2. **Impacts on Surface Waterbody:** The project will not affect any surface waterbody.
3. **Effects on Aquatic Biota and Habitats:** The project will not affect any aquatic biota or habitat.
4. **Effects on Surface and Ground Water Quality and Quantity:** The project will not affect surface and ground water quality or quantity.

## **C. Air**

1. **Meeting Applicable Emissions Standards:** The project will meet applicable emissions standards and regulations contained in the State Air Pollution Control Code.
2. **Precautions Taken to Prevent Noise Problems:** All state, county, and local health and noise abatement rules and regulations are adhered to at the site to ensure the prevention of potential noise problems.
3. **Precautions Taken to Prevent Odor Problems:** All state, county, and local health and waste management rules and regulations are adhered to at the site to ensure the prevention of potential odor problems.

## **D. Aquatic and Terrestrial Wildlife**

1. **Loss or Gain of Wildlife Habitat:** The project does not affect wildlife habitat.
2. **Impact on Threatened and Endangered Plants or Animal Species:** The project does not affect threatened or endangered plants or animal species or critical habitat.
3. **Impacts to Trees:** The project does not impact any trees.

## **E. Social and Economic**

1. **Effects on Historic, Archaeological or Cultural Resources:** The project does not affect any historic, archaeological, or cultural resource. There simply is no impact on historic, archaeological, or cultural resources on or eligible for the National or State Register of Historic Places by the diversion of the property for the North Bergen Pre-K program.
2. **Effects on Public Access and Public Recreation Facilities:** The current use of the site, including 17 TCUs, a tot lot, and 5 parking spaces, replaced a pre-2001 use as a practice softball field. However, the field was not a regulation size with the outfield being on the running track and as such was rarely used. Since 2001, the Township has replaced and improved facilities for the softball program most notably at the 64<sup>th</sup> Street Park. The replacement properties at 64<sup>th</sup> Street, Paterson Plank Road, and River Road combined increase open space and recreation facilities available to residents of North Bergen and Hudson County. Further, they provide access to recreation space in underserved areas of North Bergen and Hudson County. Please see Certification of Michael Ascolese attached.
3. **How Environmental Justice was Considered:** As per the NJ DEP's Office of Environmental Justice "the US Environmental Protection Agency Environmental Justice

defines environmental justice as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies. Fair treatment means no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies. Meaningful involvement means People have an opportunity to participate in decisions about activities that may affect their environment and/or health; The public's contribution can influence the regulatory agency's decision; Community concerns will be considered in the decision-making process; and Decision makers will seek out and facilitate the involvement of those potentially affected. <https://www.nj.gov/dep/ei/>

Environmental Justice was considered in this process in evaluating and concluding that no group of people will bear a disproportionate share of negative environmental consequences from this diversion should it be approved. In fact, if approved, substantial environmental benefits will accrue in expanding open space and recreational areas for underserved populations in densely populated North Bergen and Hudson County.

F. **Solid Waste:** Solid waste is collected routinely by the North Bergen Department of Public Works in collaboration with the North Bergen BOE.

G. **Aesthetics:** The area, previous a practice softball field, will retain the current use and character it has had since the TCUs were placed there in 2001. The surrounding area will continue to be maintained by the combination of the Hudson County Parks Department, North Bergen Department of Public Works, and the North Bergen BOE Facilities staff.

H. **Sustainability:** There are no anticipated environmental impacts that would result from the continued operation of the site in its current configuration.

I. **Cumulative Effects:** Cumulative effects include safe and convenient location for full day Pre-K ACES autistic program, Robert Fulton, and Horace Mann children and the appropriate realignment of classes throughout the North Bergen School District.

**IV. METHODS OF PROMOTING APPROPRIATE ENVIRONMENTAL DESIGN AND METHODS OF MITIGATING ADVERSE ENVIRONMENTAL IMPACTS ASSOCIATED WITH THE DISPOSAL OR DIVERSION:** There are no known or anticipated adverse environmental impacts.

## **V. AVOIDANCE OF ADVERSE ENVIRONMENTAL IMPACTS**

There are no known or anticipated adverse environmental impacts.

### 3A.Environmental Assessment Report

#### ATTACHMENT I: ENVIRONMENTAL ASSESSMENT REPORT OUTLINE

##### 1. A DESCRIPTION OF THE PROPOSED DISPOSAL OR DIVERSION

- A. Title/name of proposed activity: Diversion of the following properties:  
North Bergen EMS South Building - Block 103, Lot 127 - 1814 43rd Street, North Bergen, NJ, includes the building that houses one of two North Bergen EMS companies and North Bergen Cares, a community assistance organization.
- B. Preparer of Document: North Bergen Township, North Bergen Board of Education, County of Hudson, and Millennium Strategies LLC
- C. Location maps with the site outlined on the following: USGS 7.5 Minute Quad, USDA Soils, County Road and Tax Map- **See attached in Section H. Maps**

##### II. A DESCRIPTION OF THE ENVIRONMENTAL CONDITIONS ON THE PARKLAND PROPOSED FOR DISPOSAL OR DIVERSION AND REPLACEMENT PARCELS (IF ANY) PRIOR TO THE IMPLEMENTATION OF THE PROJECT

- A. **Natural resources of the site and surrounding area:** The area proposed for diversion is located at the 43<sup>rd</sup> Street Park, which dates back to the 1950's. It encompasses a structure built in 1999 now used by the North Bergen EMS South Unit and NB CARES. There are no land forms, hydrological features, surface water, or threatened or endangered species or critical habitats within the boundaries of the diversion parcel.
- B. **Man-made resources:** The area proposed for conversion measures .1 acres and encompasses a two story structure with a garage bay for ambulances. Adjacent parkland includes playground areas and basketball courts. Access to the building is by a driveway off of 43<sup>rd</sup> Street. There are no known hazardous substances or waste at the site, nor any underground storage tanks. It is close to busy Tonnelles Avenue/Route 1, NJ Transit 83 and 127 bus lines, and a Bergen Light Rail Station. It is itself a man-made resource as a site for North Bergen Emergency Services and NB CARES.
- C. **Human resources:** The site is located in the south end of the Township, which allows for swifter response times for emergency services for residents and visitors in that area in densely populated and highly congested North Bergen. It is staffed 24/7 with both full time and part time personnel. The park and recreational facilities include playground areas and basketball courts. There are no known historical, archeological, or architectural resources.

##### III. PROBABLE ENVIRONMENTAL IMPACTS TO THE PARKLAND AND REPLACEMENT PARCELS (IF ANY) IF THE PROPOSED ALTERNATIVE IS CONSTRUCTED

- A. Land

**1. Plan Consistency:** According to the New Jersey State Development and Redevelopment Plan (“SDRP”), “These Statewide Policies are designed to improve both the planning and the coordination of public policy among all levels of government through flexible application.” Under Public Facilities and Services, the SDRP states, “New partnerships among government and public and private organizations are combining efforts and resources, and sharing facilities and equipment, to provide public services at lower cost and higher quality.” The joint effort this diversion process represents shows “the “coordination of public policy among all levels of government.” Both the use of the Braddock Park Diversion Area and the North Bergen EMS South building at their inceptions demonstrate different levels of government working together to meet the needs of its residents, whether it be Pre-K children or emergency services. Hudson County, North Bergen, and the NBBOE have continued to work jointly to bring both sites into compliance efficiently and effectively without the unreasonable expenditure of public funds. This joint effort is further shown by the replacement properties that exceed DEP requirements and expand and enhance existing open space and recreational opportunities for North Bergen as well as Hudson County. Both the uses of the diverted properties and replacement properties support the SDRP’s goals and are consistent with the SDRP’s Policy Map and the Statewide Policies. (N.J.A.C. 7:36 26.9(d)6)). Should the North Bergen South EMS Unit and NB CARES, which shares the facility, remain at its current location in the 43<sup>rd</sup> Street Park, those entities will continue to provide for the health, safety, and well-being of North Bergen’s residents without interruption and an unreasonable expenditure of public funds. As for urban areas like North Bergen and education, the NJSDRD states the project should advance the need for “[s]chools integrated into community centers ...and other collaborative programs that provide a thorough, efficient, and equal education opportunity for all students.” The use of the site at Hudson County’s Braddock Park for the North Bergen Pre-K Program makes a full day Pre-K program and district-wide alignment with student -teacher ratios under NJDOE guidelines achievable. There is no doubt that will provide for a “thorough, efficient, and equal education opportunity” for all North Bergen students. Further, “It is the stated position of the State Planning Commission that the State Plan should neither be used in a manner that places an **inequitable burden on any one group of citizens nor should it be used as a justification for public actions that have the effect of diminishing equity.**” It would be an inequitable burden on the taxpayers of North Bergen should the proposed compensation of the replacement property and requested diversions be found inconsistent.

**2.Changes to General Character of the Area:** The general character of the area will not be changed by the diversion. The EMS building has been there in operation 24/7 since 1999.

**3.Loss or Alteration of Ecologically Sensitive Lands:** The proposed diversion will not result in the loss or alteration of any ecologically sensitive lands. “Environmentally Sensitive” typically refers to land that contains natural upland or wetland communities, native plant communities, rare and endangered flora and fauna, endemic species, endangered species habitat, a diversity of species, significant water resources, or outstanding aesthetic or other natural features. The proposed diversion will not result in the loss or alteration of any land that falls into these categories.

## **B. Water**

1. Meeting State Water Quality Standards: The project does not involve water.

2. Impacts on Surface Waterbody: The project will not affect any surface waterbody.
3. Effects on Aquatic Biota and Habitats: The project will not affect any aquatic biota or habitat.
4. Effects on Surface and Ground Water Quality and Quantity: The project will not affect surface and ground water quality or quantity.

**C. Air**

1. Meeting Applicable Emissions Standards: The project will meet applicable emissions standards and regulations contained in the State Air Pollution Control Code.
2. Precautions Taken to Prevent Noise Problems: All applicable noise ordinances regulating emergency service facilities are followed.
3. Precautions Taken to Prevent Odor Problems: All state, county, and local health and waste management rules and regulations are adhered to at the site to ensure the prevention of potential odor problems.

**D. Aquatic and Terrestrial Wildlife**

1. Loss or Gain of Wildlife Habitat: The project does not affect wildlife habitat.
2. Impact on Threatened and Endangered Plants or Animal Species: The project does not affect threatened or endangered plants or animal species or critical habitat.
3. Impacts to Trees: The project does not impact any trees.

**E. Social and Economic**

1. Effects on Historic, Archaeological or Cultural Resources: The project does not affect any historic, archaeological, or cultural resource.
- a. Effects on Public Access and Public Recreation Facilities: The current use of the site has only beneficial social and economic impacts. The replacement properties at 64<sup>th</sup> Street, Paterson Plank Road, and River Road combined increase open space and recreation facilities available to residents of North Bergen and Hudson County. Further, they provide access to recreation space in underserved areas of North Bergen and Hudson County.
- b. How Environmental Justice was Considered: The project does not have environmental justice impacts. As per the NJ DEP's Office of Environmental Justice "the US Environmental Protection Agency Environmental Justice defines environmental justice as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations, and policies. Fair treatment means no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental, and commercial operations or policies. Meaningful involvement means People have an opportunity to participate in decisions about activities that may affect their environment and/or health; The public's contribution can influence the regulatory agency's decision;

Community concerns will be considered in the decision-making process; and; Decision makers will seek out and facilitate the involvement of those potentially affected. <https://www.nj.gov/dep/ej/> Environmental Justice was considered in this process in evaluating and concluding that no group of people will bear a disproportionate share of negative environmental consequences from this diversion should it be approved. In fact, if approved substantial environmental benefits will accrue in expanding open space and recreational areas for underserved populations in densely populated North Bergen and Hudson County through the replacement properties. The diversion here does not burden the surrounding community environmentally but rather enhances same by providing emergency services in that region of North Bergen

- F. Solid Waste:** Solid waste is collected routinely by the North Bergen Department of Public Works.
- G. Aesthetics:** The structure and surrounding area will continue to be maintained by the Township of North Bergen and North Bergen EMS South personnel.
- H. Sustainability:** There are no anticipated negative environmental impacts that would result from the continued operation of the site.
- I. Cumulative Effects:** Cumulative effects are the continuation of increased emergency services and community outreach in densely populated and highly congested North Bergen.

#### **IV. METHODS OF PROMOTING APPROPRIATE ENVIRONMENTAL DESIGN AND METHODS OF MITIGATING ADVERSE ENVIRONMENTAL IMPACTS ASSOCIATED WITH THE DISPOSAL OR DIVERSION**

There are no known or anticipated adverse environmental impacts.

#### **V. AVOIDANCE OF ADVERSE ENVIRONMENTAL IMPACTS**

There are no known or anticipated adverse environmental impacts.

#### **G. Land Valuation Forms (N.J.A.C. 7:36-26.9(d)4)**

- There are no land valuation forms for the EMS property.
- The “Highest and Best Use” section of the land valuation form for the Braddock Park diversion is not completed.
- The proposed diverted acreage for the Braddock Park Pre-K is 1.339 acres, and not 1.1 acres as stated on the land valuation form for the Braddock Park diversion.

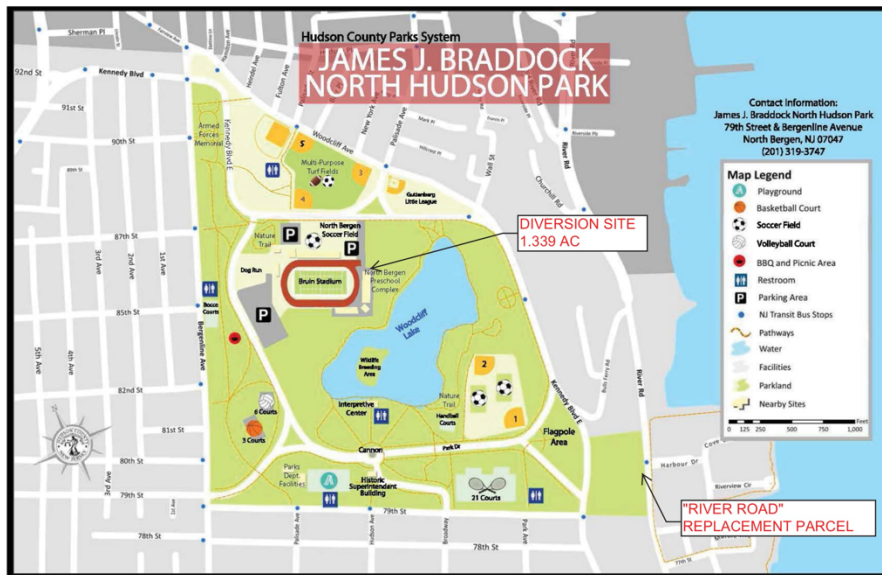
**See attached and corrected land valuation forms requested “Braddock Park and EMS Diversion Land Valuation Forms”**

#### **H. Maps (N.J.A.C. 7:36-26.9(d)9)**

- Please provide the County road map, aerial maps, reference map, and park facilities map for the EMS diversion. **Please see attachment “EMS Diversion Map” and “Reference Map All Sites.”**

Please provide the park facilities map showing removed facilities for the Braddock Park diversion site. **Please see photos below and the attachment “ 1990 Park Schematic with Girls’ Practice Softball Field” attached. See also Certification of Michael Ascolese. ( Section I)**

- Tax maps for the diversion areas and compensation parcels, with the exception of the 64<sup>th</sup> Street Parcel, were not provided.- See attachment **“Braddock Park/EMS Diversion and Replacement Property Tax Maps.”**
- A Green Acres-funded softball field was removed to accommodate the Pre-K trailers. The site plan for the replacement of the softball field and any other replacement recreational facilities is missing. **Please see attachment “Green Acres Application 2017- 64<sup>th</sup> Street Softball Field” which contains the site plan and background information for improvements made that ultimately were done without Green Acres funding.**



BRADDOCK PARK DIVERSION  
 SHC# 0900005, 0908003  
 STATE OF NEW JERSEY  
 DEPARTMENT OF ENVIRONMENTAL PROTECTION

HUDSON COUNTY  
 NORTH BERGEN MUNICIPALITY

HUDSON COUNTY PARKS SYSTEM  
 BROCHURE MAP  
 DIVERSION SITE





## **I. Preliminary Compensation Proposal (N.J.A.C. 7:36-26.10)**

- The Green Acres regulations at N.J.A.C. 7:36-26.10(j) require a minimum 5:1 compensation ratio absent mitigating circumstances. The pre-application has proposed a 3:1 compensation ratio. Please provide an explanation of the mitigating circumstances, or identify additional compensation lands sufficient to meet the 5:1 ratio.

**The 3:1 ratio was agreed to and set by NJ DEP officials during this process prior to and regarding this current Pre-Application submission in 2019. Mitigating circumstances exist given the NJDOE Pre-K mandate for the provision of Pre-K services and the inherent difficulty in locating property in North Bergen that meets NJDOE requirements for such facilities. Proposed replacement properties exceed that ratio as shown below. The chart reflects updates since the Public Scoping Hearing to the acreage calculations for both diverted properties.**

### **Compensation and Proposed Replacement Properties**

The Proposed Replacement Properties exceed the 3:1 ratio for this application with a combined fair market value of \$7,715,000. They would provide substantial tax relief for North Bergen and Hudson County taxpayers if developed. Now they will be preserved as open space. By agreement of North Bergen and Hudson County, the proposed diverted area of Braddock Park and the NBEMT South Property will only be used for another public purpose in perpetuity.

<b>Proposed Replacement Property</b>	<b>6300 Meadowview</b>	<b>1401 64<sup>th</sup> Street</b>	<b>7903-7909 River Road</b>	<b>1811 Paterson Plank Road</b>	<b>Total Acres/Value</b>	<b>3:1 ratio</b>
<b>Block/Lot</b>	B 205 L 22	B 205 L 30	B 437 L 2.01 and 2.02	B 27 L 27		
<b>Acres</b>	2.69 acres	2.07 acres	0.7 acres	1.57 acres	7.03 acres	+2.599
<b>Value</b>	\$1,975,000	\$2,455,000	\$1,410,000	\$1,875,000.	\$7,715,000	
<b>Proposed Diverted Property</b>	NB Pre-K/ Tot Lot 8701 Boulevard East			NB EMT South Building 1814 43rd St		3:1 ratio acres
<b>Block/Lot</b>	B 437.02 L 1			B 103 L 127		
<b>Acres</b>	1.339 acres			.138 acres	1.477	4.431
<b>Value</b>	\$1,181,000			\$905,600	\$2,086,600	

- For major diversion applications involving the loss of recreational facilities, applicants are required to submit a plan of the proposed replacement facilities, if available. The plan should include a detailed description of the type, cost, location, intended use of improvements and timetable for construction. Please provide information regarding how the Green Acres funded softball field displaced by the trailers will be replaced.

The trailers displaced a practice field within the area of the park leased to North Bergen. The field was a corner area behind the running track which was used for sports practices. In fact, it was used by the Varsity squad for infield practice only as the outfield was in the running track. This infield practice field was created during the 1990's when North Bergen was renovating its softball field(s) located outside of Braddock Park. Once the field renovations were completed, the Varsity Girls' Softball team no longer practiced on this infield practice field. The Junior Varsity squad may have practice there on occasion thereafter, but no games were played on this field due to its non-regulation size. Even though the infield was only used for practice, there were numerous complaints received from runners and from the softball team that the practice field itself was not very useful because of its location right next to the running track. Runners and players would have to avoid each other when softballs were hit or thrown past the infield and the danger of collision was a concern. Once its own fields, located outside of Braddock Park, were renovated, the softball teams no longer utilized that practice field. Several years later, the trailers were installed in the same area as the infield softball field.

Please see attached "1990 Braddock Park Schematic with Girls' Practice Softball Field" and "Michael Ascolese Certification."

Since that time, a newly renovated regulation girls' softball field has been installed adjacent to the Recreation Center. Renovations to the 64th Street softball field include synthetic turf, new LED field lighting, new bleachers, and new dugouts with bullpens attached. The ribbon cutting took place during the Covid crisis on Wednesday, September 2, 2020 at a final cost of \$1,607,641.00. No Green Acres funding was received for this project although an application was previously prepared.

Please see attached "North Bergen Green Acres Application 2017- 64<sup>th</sup> Street Softball Field"

<https://www.northbergen.org/News/View/3636/softball-season-opens-on-beautifully-renovated-new-field>

In addition, after the trailers were placed in the area of the practice field, the fields at Braddock Park were renovated to allow for greater use of these fields. Over the last 10 years. Fields three (3) through five (5) as well as the Durotest Field have been renovated from unimproved dirt fields to full regulation baseball and two softball fields, as well as two soccer fields. These fields have been updated to include dug-outs, batting cages, scoreboards, state of the art LED Sports Lighting and a full-sized year-round bathroom. Field one (1) and two (2) have also been renovated and are now full regulation synthetic turf and grass fields. Field #1 is used by the North Bergen JV and Freshman Baseball Teams. Field #2 is used by the Memorial JV and Freshman Teams. These fields are also used by North Bergen and Union City Recreation for both youth baseball and softball. Upgrades to these fields have allowed us to now accommodate varsity high school level play for soccer, softball and baseball that had not been sanctioned previously. Currently, these fields are permitted for use by the North Bergen Varsity Baseball on Field #4, Memorial Varsity and JV Softball Field #3, and North Bergen JV Softball Field #5. The soccer fields in the fall are used by North Bergen boys and girls sub-varsity and youth programs. See Michael Ascolese Certification.

- To ensure that the proposed replacement properties are eligible as replacement land pursuant to N.J.A.C. 7:36-26.10(d)2i-iii, please provide a letter from the Chief Financial Officer of the County or Township (depending on which entity paid for the property) accompanied by supporting documentation that shows that the funding used to acquire all proposed replacement properties was other than dedicated open space funding sources as defined in N.J.A.C. 7:36-26.10(d)ii(4)). Please note that lands that are designated, accepted for, and/or required as open space (as a condition of a development approval or permit) are ineligible for the replacement of parkland. See attached "CFO letter re Lease Payments."
- North Bergen Board of Education-owned parcels at 64<sup>th</sup> Street (Block 205, Lots 22 and 30) are offered as compensation. Based on the presumption that the Township will need a smaller area to accommodate the smaller number of students once the realignment is completed, please re-evaluate whether this property could accommodate the Pre-K proposed for Braddock Park.

**After re-evaluation of the 64<sup>th</sup> Street Property as an alternative location, one must conclude again that it cannot and should not be used to accommodate the Pre-K which currently occupies the TCUs in the Braddock Park Diversion Area. Utilizing the 64<sup>th</sup> Street Property as replacement property achieves the primary objectives of the regulations regarding diversions, to wit, fulfillment of a compelling public need and yielding a significant public benefit. Further, the use of the 64<sup>th</sup> Street Property as replacement property allows the applicant to exceed the 3:1 ratio agreed to previously by DEP officials.**

#### **J. Resolutions (N.J.A.C. 7:36-26.9(d)11)**

The resolutions required by N.J.A.C. 7:36-26.9(d)11 contain certain errors and omissions. Since we are not yet able to deem the pre-application complete, we would like the applicants to correct these errors and omissions, and submit updated resolutions as part of the response to this letter.

- Block and Lot information is missing for Braddock Park.
- Because the resolutions submitted by the Township and the County are identical, the Township's resolution does not state that the Township's interest in the proposed diversion area is a leasehold and not a fee interest.

**The County resolutions concerning this diversion application are attached hereto. The first resolution, 411-8-2015, states Hudson County's support for the Braddock Park Diversion Area and to allow the TCUs to continue to remain in Braddock Park. This 2015 resolution follows form with the recommended resolution form from the Green Acres website and includes the Block and Lot numbers for Braddock Park. The second resolution, 682-11-2020, was Hudson County's amended resolution, amending the 411-8-2015 resolution to include the EMS building and amend the area of Braddock Park to be diverted. Resolution 682-11-2020 includes the**

**Block and Lot of the added EMS Property. When read in concert, these two resolutions together meet the requirements of the Green Acres regulations. By amending the prior resolution, Resolution 682-11-2020 does not have to include the Block and Lot for Braddock Park as it was already included on the 411-8-2015 resolution.**

**The same is true for the Township of North Bergen resolutions. The 2015-08-19 resolution follows form with the recommended resolution form from the Green Acres website including the Block and Lot. The second resolution, 2020-11-04, amends the 2015-08-19 resolution by adding the EMS Building to the resolution including the Block and Lot and must also be read in concert with the prior resolution, 2015-08-19; thereby, not requiring the Block and Lot of Braddock Park in the 2020-11-04 resolution.**

**Counsel for North Bergen has prepared a Superseding Amended Resolution which is on the agenda for the Town Council Meeting scheduled for Wednesday, April 6, 2022. The draft is attached. Once the Resolution has been considered and passed, a copy shall be provided to Green Acres.**